

CHAPTER 4-12-12 CONTRACT NEGOTIATIONS

Section

4-12-12-01	General Provisions for Negotiations
4-12-12-02	Ethical Standards for Negotiations

4-12-12-01. General provisions for negotiations.

1. Discussions may be conducted in connection with competitive sealed proposals, noncompetitive, or emergency procurements. This means an exchange of information or other manner of negotiation during which the offeror and the procurement officer may alter or otherwise change the conditions, terms, and price of the proposed contract.
2. Negotiation of proposals, noncompetitive, and emergency purchases provides the procurement officer an opportunity to make certain that the bidder or offeror fully understands the solicitation requirements and provides an opportunity to make clarifications, when necessary, to ensure responsiveness to the solicitation. Price discussions can best be conducted when there is a mutual understanding of the contractual requirements.
3. Clarifications are intended to promote exchanges between the procurement officer and an offeror that may occur when an award is contemplated without discussions, for example, to resolve minor or clerical errors or ambiguities in proposals.

History: Effective August 1, 2004.

General Authority: NDCC 54-44.4-04

Law Implemented: NDCC 54-44.4-04, 54-44.4-05, 54-44.4-10

4-12-12-02. Ethical standards for negotiations.

1. When discussions or negotiations are contemplated after the receipt of proposals that are expected to lead to the revision of proposals or to best and final offers, fair and equitable treatment of competitors dictates that negotiations be conducted in accordance with ethical business standards.
2. Auction techniques are prohibited in discussions with offerors under the competitive sealed proposal method.
3. Prices; technical solutions; unique technologies; innovative use of commercial items, design, construction, or operating techniques; or other aspects of proposals submitted by one offeror must not be disclosed to competing offerors pursuant to North Dakota Century Code section 54-44.4-10.

4. Safeguards against abuse in the conduct of negotiations must be strictly observed to maintain the essential integrity of the process.

History: Effective August 1, 2004.

General Authority: NDCC 54-44.4-04

Law Implemented: NDCC 54-44.4-04, 54-44.4-05, 54-44.4-10